IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 5TH DECEMBER 2007 / 14TH AGRAHAYANA 1929

WP(C).No. 30653 of 2007(Y)

PETITIONER:

T.E. ANEESH,
HOUSE NO.13/712, KOCHANGADI, KOCHI.

BY ADV. SRI.K.I.MAYANKUTTY MATHER
SMT.S.LAKSHMY

RESPONDENTS:
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1. GOVERNMENT OF KERALA,
REPRESENTED BY SECRETARY, FOOD AND CIVIL SUPPLIES,
THIRUVANANTHAPURAM.

2. DEPUTY SECRETARY,
FOOD, CIVIL SUPPLIES AND CONSUMER AFFAIRS (B)
DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.

3. COMMISSIONER OF CIVIL SUPPLIES,
TRIVANDRUM.

4. THE DISTRICT COLLECTOR, ERNAKULAM.

5. DISTRICT SUPPLY OFFICER, ERNAKULAM.

6. C.M. JIYAS, S/O. MOHAMMAD C.P.,
CHERUPURATH VEEDU, PANIPRA P.O.,KOTHAMANGALAM.

7. K.P. VINEESH,
KOMARASSERY HOUSE, 21/1334, PALLURUTHY, KOCHI.

BY ADV. SRI.C.K.PAVITHRAN FOR R6
SRI.T.S.RADHAKRISHNA PILLAI FOR R7
SRI.T.R.RAJEEV
GOVERNMENT PLEADER SRI.M.R.SABU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO.30653/07

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1: TRUE COPY OF THE ORDER OF THE 4TH RESPONDENT.

EXT.P2: TRUE COPY OF THE PROCEEDINGS OF THE 3RD RESPONDENT.

EXT.P3: TRUE COPY OF THE PROCEEDINGS OF THE 3RD RESPONDENT.

EXT.P4: TRUE COPY OF THE REVISION PETITION FILED BY THE 1ST RESPONDENT.

EXT.P5: TRUE COPY OF THE JUDGMNT IN WPC 14880/07.

EXT.P6: TRUE COPY OF THE ORDER PASSED BY THE 2ND RESPONDENT.

EXT.P7: TRUE COPY OF THE NOTICE ISSUED BY THE 4TH RESPONDENT.

EXHIBITS OF R6

EXT.R6(a): TRUE COPY OF THE OBJECTION DT.28.6.06 FILED BY THE 6TH RESPONDENT IN APPEAL NO.(CS)A8-4842/06

//TRUE COPY//

P.A. TO JUDGE

ANTONY DOMINIC, J.

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W.P.(C) NO.30653 OF 2007 - Y
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Dated this the 5th day of December, 2007

J U D G M E N T

The challenge in this writ petition is against Exts.P1, P3 & P6.

2. The facts of the case are that an application was invited for appointment as AWD of Kappalandimukku at Kochi. There were six applicants including the petitioner, 6th respondent and the 7th respondent. On conclusion of the process of selection, by Ext.P1 proceedings of the District Collector, the 6th respondent was appointed as AWD No.VI. Aggrieved by the appointment of the 6th respondent, petitioner filed an appeal to the 3rd respondent and the 3rd respondent after considering the same passed Ext.P3 order by which the appointment of the 6th respondent was set side and the matter was remitted back to the 4th respondent for fresh consideration in accordance with the rules.

3. According to the petitioner, the 3rd respondent ought to have decided the matter on merits and should not have remanded the case for reconsideration. Urging his plea, the

petitioner filed a revision to the 1st respondent. The revision thus filed has been disposed of by Ext.P6, rejecting the contentions and upholding Ext.P3. It is in this background that this writ petition has been filed seeking to quash Exts. P1, P3 and P6.

4. The contention that is now urged before me is that when an appeal is filed, the Appellate Authority, as a matter of course, should not remand the matter for reconsideration and that remand should be resorted to only in exceptional cases and that too those requiring fresh enquiry.

5. I am not in agreement with the counsel for the writ petitioner. It is not the case of the petitioner that the Appellate Authority has no power to remand the matter for fresh consideration. If it is within the power of the Appellate Authority to remand the matter for reconsideration as has been done in Ext.P3, there is nothing illegal about such a course of action adopted by the Appellate Authority. In the circumstances of the case, on examining the materials, the Appellate Authority would have concluded that reconsideration at the hands of the original authority is what is necessary to be done. So long as such a course of action is within its power, this court will not be justified

in interfering with such order passed by the appellate authority.

In the result, I do not find any merit in the contentions urged by the writ petitioner and the writ petition is only to be dismissed and I do so.

ANTONY DOMINIC, JUDGE

Rp